

ASSEMBLY BILL

No. 86

Introduced by Assembly Member Mendoza

January 6, 2011

An act to amend Section 47605 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 86, as introduced, Mendoza. Charter schools: authorization: petition.

(1) The Charter Schools Act of 1992 allows one or more persons seeking to establish a charter school within a school district to circulate a petition to that effect. The act allows a charter petition to be submitted to the governing board of a school district for review after the petition has been signed by a number of parents or guardians of pupils that is equivalent to at least $\frac{1}{2}$ of the number of pupils that the petitioner estimates will enroll in the charter school for its first year of operation or has been signed by a number of teachers that is equivalent to at least $\frac{1}{2}$ of the number of teachers that the petitioner estimates will be employed at the charter school during its first year of operation.

This bill, in addition, would require that a charter petition signed by a number of teachers that is equivalent to at least $\frac{1}{2}$ the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation also be signed by a number of classified employees that is equivalent to at least $\frac{1}{2}$ of the number of classified employees the petitioner estimates that the charter school will employ during its first year of operation prior to submission to the governing board of a school district for review.

(2) The act allows a petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan, as specified, to be circulated by one or more persons seeking to establish the charter school. The act allows such a petition to be submitted to the governing board of a school district for review after the petition has been signed by not less than 50% of the permanent status teachers currently employed at the public school to be converted.

This bill, in addition, would require that the petition be signed by not less than 50% of the classified employees currently employed at the public school to be converted before it may be submitted to the governing board of a school district.

(3) The bill also would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 47605 of the Education Code is amended
2 to read:

3 47605. (a) (1) Except as set forth in paragraph (2), a petition
4 for the establishment of a charter school within a school district
5 may be circulated by one or more persons seeking to establish the
6 charter school. A petition for the establishment of a charter school
7 shall identify a single charter school that will operate within the
8 geographic boundaries of that school district. A charter school
9 may propose to operate at multiple sites within the school district,
10 as long as each location is identified in the charter school petition.
11 The petition may be submitted to the governing board of the school
12 district for review after either of the following conditions ~~are~~ is
13 met:

14 (A) The petition has been signed by a number of parents or legal
15 guardians of pupils that is equivalent to at least one-half of the
16 number of pupils that the charter school estimates will enroll in
17 the school for its first year of operation.

18 (B) The petition has been signed by a number of teachers that
19 is equivalent to at least one-half of the number of teachers, *and by*
20 *a number of classified employees that is equivalent to at least*
21 *one-half of the number of classified employees*, that the charter
22 school estimates will be employed at the school during its first
23 year of operation.

(2) A petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan pursuant to subdivision (b) of Section 41365 may be circulated by one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the permanent status teachers *and not less than 50 percent of the permanent classified employees* currently employed at the public school to be converted.

(3) (A) A petition shall include a prominent statement that a signature on the petition ~~means that~~ *has one of the following meanings:*

(i) *In the case of a parent's or legal guardian's signature, that the parent or legal guardian is meaningfully interested in having his or her child or ward attend the charter school, ~~or in~~.*

(ii) *In the case of a teacher's signature, ~~means that~~ the teacher is meaningfully interested in teaching at the charter school. ~~The~~*

(iii) *In the case of a classified employee's signature, that the classified employee is meaningfully interested in working at the charter school.*

(B) *The proposed charter shall be attached to the petition.*

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter, and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the additional locations are approved, they shall be a material revision to the charter school's charter.

(5) A charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances ~~exist~~ *exists*:

1 (A) The school has attempted to locate a single site or facility
2 to house the entire program, but a site or facility is unavailable in
3 the area in which the school chooses to locate.

4 (B) The site is needed for temporary use during a construction
5 or expansion project.

6 (6) Commencing January 1, 2003, a petition to establish a charter
7 school may not be approved to serve pupils in a grade level that
8 is not served by the school district of the governing board
9 considering the petition, unless the petition proposes to serve pupils
10 in all of the grade levels served by that school district.

11 (b) No later than 30 days after receiving a petition, in accordance
12 with subdivision (a), the governing board of the school district
13 shall hold a public hearing on the provisions of the charter, at
14 which time the governing board of the school district shall consider
15 the level of support for the petition by teachers employed by the
16 district, other employees of the district, and parents. Following
17 review of the petition and the public hearing, the governing board
18 of the school district shall either grant or deny the charter within
19 60 days of receipt of the petition, provided, however, that the date
20 may be extended by an additional 30 days if both parties agree to
21 the extension. In reviewing petitions for the establishment of
22 charter schools pursuant to this section, the chartering authority
23 shall be guided by the intent of the Legislature that charter schools
24 are and should become an integral part of the California educational
25 system and that *the* establishment of charter schools should be
26 encouraged. The governing board of the school district shall grant
27 a charter for the operation of a school under this part if it is satisfied
28 that granting the charter is consistent with sound educational
29 practice. The governing board of the school district shall not deny
30 a petition for the establishment of a charter school unless it makes
31 written factual findings, specific to the particular petition, setting
32 forth specific facts to support one or more of the following
33 findings:

34 (1) The charter school presents an unsound educational program
35 for the pupils to be enrolled in the charter school.

36 (2) The petitioners are demonstrably unlikely to successfully
37 implement the program set forth in the petition.

38 (3) The petition does not contain the number of signatures
39 required by subdivision (a).

1 (4) The petition does not contain an affirmation of each of the
2 conditions described in subdivision (d).

3 (5) The petition does not contain reasonably comprehensive
4 descriptions of all of the following:

5 (A) (i) A description of the educational program of the school,
6 designed, among other things, to identify those whom the school
7 is attempting to educate, what it means to be an “educated person”
8 in the 21st century, and how learning best occurs. The goals
9 identified in that program shall include the objective of enabling
10 pupils to become self-motivated, competent, and lifelong learners.

11 (ii) If the proposed school will serve high school pupils, a
12 description of the manner in which the charter school will inform
13 parents about the transferability of courses to other public high
14 schools and the eligibility of courses to meet college entrance
15 requirements. Courses offered by the charter school that are
16 accredited by the Western Association of Schools and Colleges
17 may be considered transferable and courses approved by the
18 University of California or the California State University as
19 creditable under the “A” to “G” admissions criteria may be
20 considered to meet college entrance requirements.

21 (B) The measurable pupil outcomes identified for use by the
22 charter school. “Pupil outcomes,” for purposes of this part, means
23 the extent to which all pupils of the school demonstrate that they
24 have attained the skills, knowledge, and attitudes specified as goals
25 in the school’s educational program.

26 (C) The method by which pupil progress in meeting those pupil
27 outcomes is to be measured.

28 (D) The governance structure of the school, including, but not
29 limited to, the process to be followed by the school to ensure
30 parental involvement.

31 (E) The qualifications to be met by individuals to be employed
32 by the school.

33 (F) The procedures that the school will follow to ensure the
34 health and safety of pupils and staff. These procedures shall include
35 the requirement that each employee of the school furnish the school
36 with a criminal record summary as described in Section 44237.

37 (G) The means by which the school will achieve a racial and
38 ethnic balance among its pupils that is reflective of the general
39 population residing within the territorial jurisdiction of the school
40 district to which the charter petition is submitted.

1 (H) Admission requirements, if applicable.

2 (I) The manner in which annual, independent financial audits
3 shall be conducted, which shall employ generally accepted
4 accounting principles, and the manner in which audit exceptions
5 and deficiencies shall be resolved to the satisfaction of the
6 chartering authority.

7 (J) The procedures by which pupils can be suspended or
8 expelled.

9 (K) The manner by which staff members of the charter schools
10 will be covered by the State Teachers' Retirement System, the
11 Public Employees' Retirement System, or federal social security.

12 (L) The public school attendance alternatives for pupils residing
13 within the school district who choose not to attend charter schools.

14 (M) A description of the rights of any employee of the school
15 district upon leaving the employment of the school district to work
16 in a charter school, and of any rights of return to the school district
17 after employment at a charter school.

18 (N) The procedures to be followed by the charter school and
19 the entity granting the charter to resolve disputes relating to
20 provisions of the charter.

21 (O) A declaration whether or not the charter school shall be
22 deemed the exclusive public school employer of the employees of
23 the charter school for the purposes of Chapter 10.7 (commencing
24 with Section 3540) of Division 4 of Title 1 of the Government
25 Code.

26 (P) A description of the procedures to be used if the charter
27 school closes. The procedures shall ensure a final audit of the
28 school to determine the disposition of all assets and liabilities of
29 the charter school, including plans for disposing of any net assets
30 and for the maintenance and transfer of pupil records.

31 (c) (1) Charter schools shall meet all statewide standards and
32 conduct the pupil assessments required pursuant to Sections 60605
33 and 60851 and any other statewide standards authorized in statute
34 or pupil assessments applicable to pupils in noncharter public
35 schools.

36 (2) Charter schools shall, on a regular basis, consult with their
37 parents, legal guardians, and teachers regarding the school's
38 educational programs.

39 (d) (1) In addition to any other requirement imposed under this
40 part, a charter school shall be nonsectarian in its programs,

1 admission policies, employment practices, and all other operations,
2 shall not charge tuition, and shall not discriminate against any
3 pupil on the basis of the characteristics listed in Section 220. Except
4 as provided in paragraph (2), admission to a charter school shall
5 not be determined according to the place of residence of the pupil,
6 or of his or her parent or legal guardian, within this state, except
7 that an existing public school converting partially or entirely to a
8 charter school under this part shall adopt and maintain a policy
9 giving admission preference to pupils who reside within the former
10 attendance area of that public school.

11 (2) (A) A charter school shall admit all pupils who wish to
12 attend the school.

13 (B) However, if the number of pupils who wish to attend the
14 charter school exceeds the school's capacity, attendance, except
15 for existing pupils of the charter school, shall be determined by a
16 public random drawing. Preference shall be extended to pupils
17 currently attending the charter school and pupils who reside in the
18 district except as provided for in Section 47614.5. Other
19 preferences may be permitted by the chartering authority on an
20 individual school basis and only if consistent with the law.

21 (C) In the event of a drawing, the chartering authority shall
22 make reasonable efforts to accommodate the growth of the charter
23 school and in no event shall take any action to impede the charter
24 school from expanding enrollment to meet pupil demand.

25 (3) If a pupil is expelled or leaves the charter school without
26 graduating or completing the school year for any reason, the charter
27 school shall notify the superintendent of the school district of the
28 pupil's last known address within 30 days, and shall, upon request,
29 provide that school district with a copy of the cumulative record
30 of the pupil, including a transcript of grades or report card, and
31 health information. This paragraph applies only to pupils subject
32 to compulsory full-time education pursuant to Section 48200.

33 (e) The governing board of a school district shall not require
34 any employee of the school district to be employed in a charter
35 school.

36 (f) The governing board of a school district shall not require
37 any pupil enrolled in the school district to attend a charter school.

38 (g) The governing board of a school district shall require that
39 the petitioner or petitioners provide information regarding the
40 proposed operation and potential effects of the school, including,

1 but not limited to, the facilities to be utilized by the school, the
2 manner in which administrative services of the school are to be
3 provided, and potential civil liability effects, if any, upon the school
4 and upon the school district. The description of the facilities to be
5 used by the charter school shall specify where the school intends
6 to locate. The petitioner or petitioners shall also be required to
7 provide financial statements that include a proposed first-year
8 operational budget, including startup costs, and cashflow and
9 financial projections for the first three years of operation.

10 (h) In reviewing petitions for the establishment of charter
11 schools within the school district, the governing board of the school
12 district shall give preference to petitions that demonstrate the
13 capability to provide comprehensive learning experiences to pupils
14 identified by the petitioner or petitioners as academically low
15 achieving pursuant to the standards established by the department
16 under Section 54032, as it read prior to July 19, 2006.

17 (i) Upon the approval of the petition by the governing board of
18 the school district, the petitioner or petitioners shall provide written
19 notice of that approval, including a copy of the petition, to the
20 applicable county superintendent of schools, the department, and
21 the state board.

22 (j) (1) If the governing board of a school district denies a
23 petition, the petitioner may elect to submit the petition for the
24 establishment of a charter school to the county board of education.
25 The county board of education shall review the petition pursuant
26 to subdivision (b). If the petitioner elects to submit a petition for
27 establishment of a charter school to the county board of education
28 and the county board of education denies the petition, the petitioner
29 may file a petition for establishment of a charter school with the
30 state board, and the state board may approve the petition, in
31 accordance with subdivision (b). A charter school that receives
32 approval of its petition from a county board of education or from
33 the state board on appeal shall be subject to the same requirements
34 concerning geographic location to which it would otherwise be
35 subject if it received approval from the entity to which it originally
36 submitted its petition. A charter petition that is submitted to either
37 a county board of education or to the state board shall meet all
38 otherwise applicable petition requirements, including the
39 identification of the proposed site or sites where the charter school
40 will operate.

1 (2) In assuming its role as a chartering agency, the state board
2 shall develop criteria to be used for the review and approval of
3 charter school petitions presented to the state board. The criteria
4 shall address all elements required for charter approval, as
5 identified in subdivision (b), and shall define “reasonably
6 comprehensive” as used in paragraph (5) of subdivision (b) in a
7 way that is consistent with the intent of this part. Upon satisfactory
8 completion of the criteria, the state board shall adopt the criteria
9 on or before June 30, 2001.

10 (3) A charter school for which a charter is granted by either the
11 county board of education or the state board based on an appeal
12 pursuant to this subdivision shall qualify fully as a charter school
13 for all funding and other purposes of this part.

14 (4) If either the county board of education or the state board
15 fails to act on a petition within 120 days of receipt, the decision
16 of the governing board of the school district to deny a petition
17 shall, thereafter, be subject to judicial review.

18 (5) The state board shall adopt regulations implementing this
19 subdivision.

20 (6) Upon the approval of the petition by the county board of
21 education, the petitioner or petitioners shall provide written notice
22 of that approval, including a copy of the petition, to the department
23 and the state board.

24 (k) (1) The state board may, by mutual agreement, designate
25 its supervisory and oversight responsibilities for a charter school
26 approved by the state board to any local educational agency in the
27 county in which the charter school is located or to the governing
28 board of the school district that first denied the petition.

29 (2) The designated local educational agency shall have all
30 monitoring and supervising authority of a chartering agency,
31 including, but not limited to, powers and duties set forth in Section
32 47607, except the power of revocation, which shall remain with
33 the state board.

34 (3) A charter school that has been granted its charter through
35 an appeal to the state board and elects to seek renewal of its charter
36 shall, prior to expiration of the charter, submit its petition for
37 renewal to the governing board of the school district that initially
38 denied the charter. If the governing board of the school district
39 denies the school’s petition for renewal, the school may petition
40 the state board for renewal of its charter.

1 (l) Teachers in charter schools shall hold a Commission on
2 Teacher Credentialing certificate, permit, or other document
3 equivalent to that which a teacher in other public schools would
4 be required to hold. These documents shall be maintained on file
5 at the charter school and are subject to periodic inspection by the
6 chartering authority. It is the intent of the Legislature that charter
7 schools be given flexibility with regard to noncore, noncollege
8 preparatory courses.

9 (m) A charter school shall transmit a copy of its annual,
10 independent financial audit report for the preceding fiscal year, as
11 described in subparagraph (I) of paragraph (5) of subdivision (b),
12 to its chartering entity, the Controller, the county superintendent
13 of schools of the county in which the charter school is sited, unless
14 the county board of education of the county in which the charter
15 school is sited is the chartering entity, and the department by
16 December 15 of each year. This subdivision does not apply if the
17 audit of the charter school is encompassed in the audit of the
18 chartering entity pursuant to Section 41020.